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**FISCAL IMPACT STATEMENT**

**LS 7428**

**BILL NUMBER:** HB 1482

**NOTE PREPARED:** Feb 17, 2005

**BILL AMENDED:**

**SUBJECT:** Home Detention.

**FIRST AUTHOR:** Rep. Reske

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:**      **GENERAL**  
**DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill has the following provisions:

- A. It requires constant supervision of persons who are at risk of flight and violent offenders who are on home detention.
- B. It requires development of written criteria and procedures to determine if a person placed on home detention is a violent offender or flight risk.
- C. It requires an entity monitoring an offender or flight risk to: (1) provide local law enforcement agencies with information indicating whether the person on home detention is an offender or a flight risk; (2) forward a photograph of the person on home detention to local law enforcement; and (3) immediately contact a local law enforcement agency if the person on home detention violates a condition of home detention.
- D. It makes a technical change correcting the definition of "violent offender" for purposes of home detention.

**Effective Date:** July 1, 2005.

**Explanation of State Expenditures:** Overall, this bill would affect persons either accused or convicted of the following crimes who are either on parole after being sentenced for committing or on home detention awaiting trial for having committed one of the crimes listed in the following table.

Offenders on parole would affect the expenditures of the Department of Correction (DOC). Offenders on home detention awaiting trial would affect local expenditures through the probation and community corrections programs.

IN code	Crime
IC 35-41-5-1	Attempted murder IC 35-41-5-1
IC 35-42-1-1	Murder IC 35-42-1-1
IC 35-42-1-3	Voluntary manslaughter IC 35-42-1-3
IC 35-42-1-4	Involuntary manslaughter IC 35-42-1-4
IC 35-42-1-5	Reckless homicide IC 35-42-1-5
IC 35-42-2-1	Battery IC 35-42-2-1
IC 35-42-2-13	Domestic battery IC 35-42-2-13
IC 35-42-2-15	Aggravated battery IC 35-42-2-15
IC 35-42-3-2	Kidnapping IC 35-42-3-2
IC 35-42-4-1	Rape IC 35-42-4-1
IC 35-42-4-2	Criminal deviate conduct IC 35-42-4-2
IC 35-42-4-3	Child molesting IC 35-42-4-3
IC 35-42-4-9b2	Sexual misconduct with a minor as a Class A felony under IC 35-42-4-9(a)2 or a Class B felony under IC 35-42-4-9(b)2
IC 35-42-5-1	Robbery as a Class A felony or a Class B felony IC 35-42-5-1
IC 35-43-1-1	Arson IC 35-43-1-1
IC 35-43-2-1	Burglary as a Class A felony or a Class B felony IC 35-43-2-1 or
IC 35-45-10-5	Stalking IC 35-45-10-5
IC 35-47.5-5	Offense involving a regulated explosive
IC 9-30-5-5	Causing death when operating a motor vehicle IC 9-30-5-5

The DOC could incur additional costs associated with three aspects of this bill.

First, DOC would need to add staff to monitor offenders on parole at night or rearrange staff hours. Currently, parole officers do not monitor offenders on a constant basis as required in this proposal.

DOC currently has 71 parole officers to monitor 6,639 offenders who are on parole. This represents a ratio of 94 paroled offenders to 1 parole officer. Of these offenders, at least 1,938, or 34.2%, may be required to be monitored on a 24-hour-per-day basis, depending on the written criteria adopted by DOC under the bill. DOC would need to hire an additional 20 parole officers to monitor these offenders at this current ratio (1,938 offenders ÷ 94 parole officers). If the ratio of offenders to parole officer needs to be reduced, then more parole officers would need to be hired.

Parole officers are classified as PAT III positions. The starting salary of a PAT III is \$29,744. The cost of 20 additional parole officers at the starting salary with fringe benefits is estimated to be \$925,000.

Second, with few exceptions, DOC does not use electronic monitoring for any parolees. In some cases, DOC has arranged for some offenders to be monitored by local community corrections programs.

A global position system would allow DOC to constantly monitor an offender. Based on reported daily costs of \$5 per parolee in Marion County, the estimated cost to constantly monitor these 1,938 offenders using a global positioning system would be \$3.54 M. (1,938 parolees x \$5 per day x 365 days per year). In other states, offenders on parole are responsible for paying some or all of the costs of this monitoring arrangement. Under current law, offenders on parole are not charged any type of fee.

Third, some administrative costs may be incurred by the Parole Board and the Department of Correction in developing criteria and procedures and a record keeping system for determining whether an offender is a violent offender or a flight risk.

*Background Information:* Under current law, when offenders are released from the Department of Correction, they are assigned to parole. The length of time on parole depends on whether the conviction was for a crime which requires registering with the Indiana Sex Offender Registry. Offenders are required to register on this listing if they were convicted and sentenced for one of these violent crimes:

1. Rape (IC 35-42-4-1).
2. Criminal deviate conduct (IC 35-42-4-2).
3. Child molesting (IC 35-42-4-3).
4. Child exploitation (IC 35-42-4-4(b)).
5. Vicarious sexual gratification (IC 35-42-4-5).
6. Child solicitation (IC 35-42-4-6).
7. Child seduction (IC 35-42-4-7).
8. Sexual misconduct with a minor as a Class A, Class B, or Class C felony (IC 35-42-4-9).
9. Incest (IC 35-46-1-3).
10. Sexual battery (IC 35-42-4-8).
11. Kidnapping (IC 35-42-3-2), if the victim is less than 18 years of age.
12. Criminal confinement (IC 35-42-3-3), if the victim is less than 18 years of age.
13. An attempt or conspiracy to commit a crime listed in subdivisions (1) through (12).
14. A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through (13).

Offenders who are required to register with the Indiana Sex Offender Registry are required to be placed on parole for not more than 10 years.

Offenders who are not sex offenders may remain on parole for a maximum of 24 months.

DOC also indicates that the parole staff have arrangements with several law enforcement agencies across the state concerning the notification of the release of offenders on parole. As an example, Marion County requests that all offenders on parole or probation register with the Indianapolis Police Department regardless of offense. DOC assists with this process. Other individual counties have requested updated lists of parolees, which are generally provided directly by the supervising agents. The Department also runs a list of upcoming release dates from the Offender Information System that is sometimes requested from a county.

DOC reports that of the 6,639 offenders who are on parole in December 2004, 1,938 offenders may be categorized as violent offenders by this bill.

<b><u>Offense</u></b>	<b><u>Cite</u></b>	<b><u>Grand Total</u></b>
Attempted Murder	35-41-5-1	178
Murder	35-42-1-1	98
Voluntary Manslaughter	35-42-1-3	41
Involuntary Manslaughter	35-42-1-4	10
Reckless Homicide	35-42-1-5	34
Battery	35-42-2-1	293
Domestic Battery	35-42-2-1.3	16
Aggravated Battery	35-42-2-1.5	74
Kidnaping	35-42-3-2	7
Rape	35-42-4-1	71
Criminal Deviate Conduct	35-42-4-2	24
Child Molesting	35-42-4-3	317
Robbery (FA or FB)	35-42-4-9	82
Arson	35-42-5-1	302
Burglary (FA or FB)	35-43-1-1	31
Escape/Failure to Return	35-43-2-1	346
Stalking	35-45-10-5	12
OWI causing death	9-30-5-5	2
Grand Total		<u>1,938</u>

*Provision C:* HEA 1806–2001 specified that offenders who violate either a home detention order or who intentionally remove an electronic monitoring device can be prosecuted for criminal escape, a Class D felony. This section would limit criminal escape to intentionally removing an electronic monitoring device to a Class D felony. This section could marginally reduce future prison commitments.

#### **Explanation of State Revenues:**

**Explanation of Local Expenditures:** Under current law, an offender can be sentenced to home detention either with or without electronic monitoring. Electronic monitoring, as defined in current statute, is limited to transmitting a radio frequency from the offender’s home. The following changes are proposed in this bill that would affect the way that home detention programs are operated.

<u>Provision</u>	<u>Current Law</u>	<u>Proposed</u>
Monitoring Device	Limited to determining whether offender is present or absent from home	Can track offenders in locations outside of home; can be a global positioning system satellite service
Definition of a Flight Risk	Not Specified	Person convicted of escape, attempted escape, or failure to return to lawful detention.
Supervision of offender	Constant supervision of sex offenders with staff available 24 hours per day to respond to violations	Constant supervision of any violent offender of offender who is a flight risk with staff available 24 hours per day to respond to violations
Requirements for supervising agency for violent offenders	Not Specified	Provide all law enforcement. agencies with information on violent offender on pretrial release on home detention
When Home Detention Violation is Detected	Not specified	Agency must contact local law enforcement agency <b>immediately</b> when home detention violation is detected

Currently, several probation departments and community corrections agencies use global positioning satellite services to monitor offenders on home detention. These programs are technically out of compliance with current law, and this bill would allow these programs to continue legally.

Between CY 2000 and 2003, the trend in the number of offenders on home detention has shown no clear pattern.

<b>Offenders on Home Detention by Calendar Year</b>			
	<u>2000</u>	<u>2001</u>	<u>2002</u>
Adult felons	4,701	2,274	2,655
Adult misdemeanants	1,198	735	1,019
Juvenile felons (if offense committed by an adult)	178	204	261
Juvenile misdemeanants (if offense committed by adult)	<u>146</u>	<u>190</u>	<u>210</u>
Total number of offenders	<u>6,223</u>	<u>3,403</u>	<u>4,145</u>

As an example of the difference in cost, the daily cost of a radio frequency device that monitors offenders in their homes is \$1.30 in Marion County, while the cost of a global positioning satellite system is \$5.00 per day.

**Explanation of Local Revenues:**

**State Agencies Affected:** Parole Board, Department of Correction.

**Local Agencies Affected:** Community corrections agencies.

**Information Sources:** Department of Correction.

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